

**SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM**

**SUBJECT:** Richard O'Dell, Sr.'s property

**DEPARTMENT:** County Attorney's Office

**DIVISION:** Litigation

**AUTHORIZED BY:** Lola Pfeil

**CONTACT:** Sharon Sharrer

**EXT:** 7257

**MOTION/RECOMMENDATION:**

Richard O'Dell, Sr.'s property. Approval of a proposed negotiated settlement relating to Parcel Numbers 126 and 126A of the County Road 15 road improvement project. The proposed settlement is at the total sum of \$50,230.00 inclusive of all compensation to the owner, statutory attorney fees, statutory interest, resolution of the inverse condemnation counterclaim and any other matter for which Seminole County might be obligated to pay relating to these parcels. The owner did not incur any expert's fees or costs in his defense of this eminent domain action. Judge Clayton D. Simmons.

District 5 Brenda Carey

Robert A. McMillan

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**BACKGROUND:**

see attached

**STAFF RECOMMENDATION:**

Staff recommends that the Board approve the proposed negotiated settlement relating to Parcel Numbers 126 and 126A of the County Road 15 road improvement project. The proposed settlement is at the total sum of \$50,230.00 inclusive of all compensation to the owner, statutory attorney fees, statutory interest, resolution of the inverse condemnation counterclaim and any other matter for which Seminole County might be obligated to pay relating to these parcels.

**ATTACHMENTS:**

1. Richard O'Dell, Sr.'s property

<b>Additionally Reviewed By:</b> No additional reviews
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**COUNTY ATTORNEY'S OFFICE  
MEMORANDUM**

TO: Board of County Commissioners

THROUGH: Matthew G. Minter, Deputy County Attorney

*Matthew G. Minter*

FROM: David G. Shields, Assistant County Attorney  
Ext. 5736

*David G. Shields*

CONCUR: Antoine Khoury, P.E./Assistant County Engineer/Engineering Division

*AKH 5-22-09*

DATE: May 22, 2009

RE: Settlement Authorization  
County Road 15  
Parcel Nos. 126 and 126A; Richard O'Dell, Sr.  
Seminole County v. O'Dell, et al.  
Case No. 2007-CA-1455-13-K

This memorandum requests settlement authorization by the Board of County Commissioners (BCC) for Parcel No. 126A on the County Road 15 ("C15") road improvement project. The settlement also covers an inverse condemnation counterclaim in the case over an area designated as Parcel No. 126. The recommended settlement is at the total sum of \$50,230.00 inclusive of all compensation to the owner, statutory attorney fees, statutory interest, resolution of the inverse condemnation counterclaim and any other matter for which Seminole County might be obligated to pay for the referenced parcel allocated as follows.

\$40,000.00	Land value, improvements, severance and any other damages and statutory interest
\$10,230.00	Statutory attorney's fee; and
\$ 0.00	Costs
<u>\$50,230.00</u>	Total

The property owner did not incur expert's fees or costs in his defense of this eminent domain action.

**I. THE PROPERTY:**

**A. Location Data**

The subject property is located along the east side of C15 (Monroe Road) south of Church Street in a portion of unincorporated Seminole County, Florida. A location map is attached as Exhibit A.

## **B. Property Address**

The street address is 651 Monroe Road, Sanford, FL 32771. A parcel sketch is attached as Exhibit B.

## **II AUTHORITY TO ACQUIRE**

The BCC adopted Resolution No. 2006-R-114 on May 9, 2006, authorizing the acquisition of Parcel No. 126A. The C15 road improvement project was found to be necessary and serving a public purpose and in the best interests of the citizens of Seminole County. The hearing on the eminent domain petitioner occurred on July 26, 2007 and the Order of Taking was entered August 2, 2007, with title vesting in Seminole County on August 14, 2007, the date of the good faith deposit in the amount of \$5,800.00.

The subject property is encumbered with a reservation of right-of-way pursuant to a deed issued by the Trustees of the Internal Improvement Trust Fund of the State of Florida executed on October 13, 1941 and recorded on November 13, 1941 in the Public Records of Seminole County, Florida (the "TIITF Reservation"). The portion of the TIITF Reservation that the County used for road construction is designated as Parcel No. 126. The County did not obtain an order of taking or pay a good faith deposit for this parcel because of the TIITF Reservation. The owner brought an inverse condemnation counterclaim challenging the validity of the TIITF Reservation on Parcel No. 126.

## **III ACQUISITIONS AND REMAINDER**

The acquisition of Parcel No. 126A is 744 square feet in fee simple. Parcel No. 126 is 2,103 square feet. The acquisition of Parcel No. 126A and the utilization of Parcel No. 126 will leave a remainder of 29,300 square feet from a parent tract of 32,147 square feet. Parcel Nos. 126 and 126A together constitute a rectangular strip of land from the subject's frontage on County Road 15.

## **IV APPRAISED VALUES**

The County's original report dated September 29, 2006, was prepared by Florida Realty Analysts, Inc., and reported full compensation to be \$5,600.00. The updated report dated July 2, 2007, opines the value at \$5,800.00.

The owner did not have an appraisal report prepared.

## **V BINDING OFFER/NEGOTIATION**

The County's initial written offer was \$9,000.00, exclusive of costs and fees. A subsequent Offer of Judgment was issued to the property owner on October 30, 2008 at the same initial written offer amount of \$9,000.00. On February 19, 2009, the owner offered \$65,000.00, exclusive of fees and costs. The County countered with \$22,500.00, exclusive, followed by an owner offer of \$50,000.00 exclusive, followed by a County offer of \$30,000.00, exclusive. Thereafter, the parties settled on \$40,000.00,

exclusive of fees and costs. As part of the settlement the County has agreed to release the part of the TIITF Reservation not utilized for C15, i.e., the part of the TIITF Reservation outside of Parcel No. 126 and the owner will dismiss the inverse condemnation counterclaim with prejudice.

## **VI ATTORNEY'S FEES AND COSTS**

A. Attorney's Fees. The statutory attorney's fee reimbursement totals \$10,230.00. The sum is statutorily computed based upon a settlement sum of \$40,000.00 less a first written offer of \$9,000.00 to produce a benefit of \$31,000.00.

The owner did not incur any expert's fees or costs in his defense of this eminent domain action.

## **VII ANALYSIS/COST AVOIDANCE**

The owner did not obtain an appraiser which probably would have cost the County at least \$20,000.00. If the matter went to trial, the County would probably have to pay its own appraiser at least another \$5,000.00 - \$7,000.00. The difference between the \$9,000.00 binding written offer and the \$40,000.00 settlement is \$31,000.00. All but a few thousand dollars of this difference can therefore be justified by the probable appraisal costs avoided. The remaining difference can be attributed to the risk that the jury might agree to a higher land value as opined by an opposing appraiser. The County also avoided the risk of an adverse result on the inverse condemnation counterclaim. However remote that risk might be, an adverse ruling would not only result in more compensation to the owner, but payment of attorney fees on an hourly basis.

By this settlement, the County avoids all additional costs associated with litigation and any risk associated with continuing to litigate the inverse condemnation counterclaim.

## **VIII RECOMMENDATION**

County staff recommends that the BCC approve this negotiated settlement in the total sum of \$50,230.00, inclusive of all compensation to the owner, statutory attorney fees, interest, resolution of the inverse condemnation counterclaim and any other matter for which Seminole County might be obligated to pay relating to this parcel.

DGS/dre

Two (2) Attachments:

Exhibit A - Location Map

Exhibit B - Sketch

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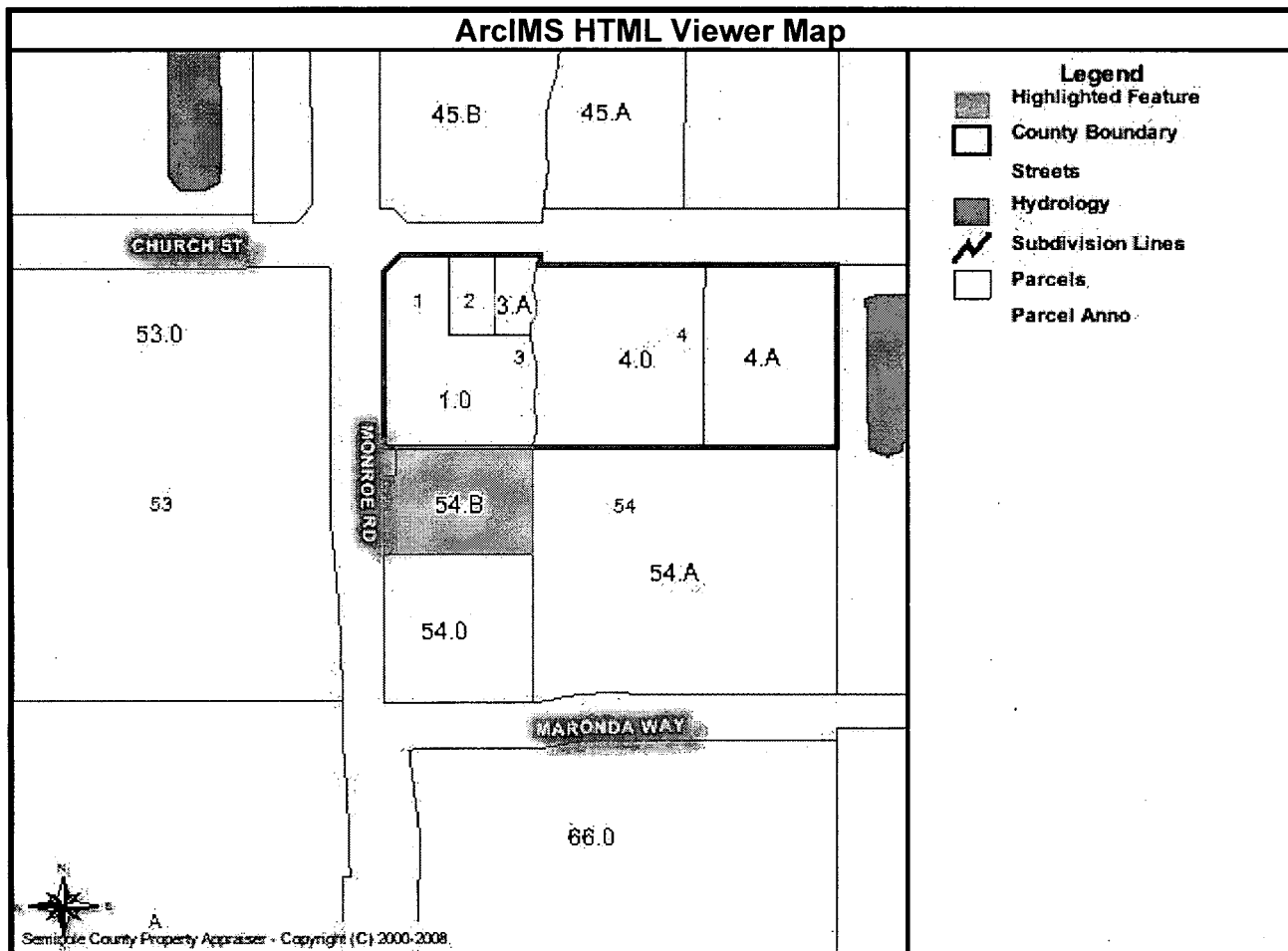
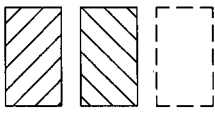


EXHIBIT A



- PARENT TRACT 0.738 AC
- AREA OF TAKE - PARCEL 126 2,103 SF
- AREA OF TAKE - PARCEL 126A 744 SF
- AREA OF TIIF 7,545 SF
- REMAINDER TRACT 0.673 AC
- PROPERTY LINE
- TIIF BOUNDARY
- PARCEL 126
- PARCEL 126A



PARENT TRACT : WITH TAKING SHOWN

PARCEL 126/126A  
C.R. 15 / MONROE ROAD  
SEMINOLE CO., FLORIDA



gai consultants  
614 East South Street  
Columbus, GA 31906  
404-423-8398

SHEET: 2  
PROJECT NUMBER: A060352.00  
FILE NAME: par126-126A.dwg

PER SITE VISIT	PHP	06/29/07
SCALE AS SHOWN		
DRAWN: PHP	APPROVED: DNE	
CHECKED: DCD	APP. DATE: 8/18/06	

EXHIBIT B